

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of:)	
)	
Digital Audio Broadcasting Systems)	MM Docket No. 99-325
And Their Impact on the Terrestrial)	
Radio Broadcast Service)	

To: The Secretary

COMMENTS OF ENTRAVISION HOLDINGS, LLC

Entravision Holdings, LLC ("Entravision"), the licensee of broadcast radio stations providing Spanish-language programming to Hispanic audiences, by its attorneys, hereby files these Comments in the above-referenced proceeding concerning the request made by certain digital audio broadcasting ("DAB") station licensees (the "Joint Parties") for a ten-fold increase in DAB operating power.¹ First and foremost, Entravision submits that the Commission should not render a decision on the requested increase until such time as the technical studies undertaken by National Public Radio ("NPR") in connection with this proceeding have been completed. Given that many FM analog stations, including Entravision stations, already receive interference from DAB stations operating at the -20 dB level, Entravision believes that an increase in power to the -10 dB level requested by the Joint Parties could very likely create unacceptable interference to analog broadcast radio stations. To resolve this proceeding in the public interest, the Commission must reconcile the Joint Parties' desire for improved coverage with the overarching need to protect analog FM stations from interference to their operations, including DAB interference. The completed NPR studies will provide the Commission with the

¹ See *Comment Sought On Specific Issues Regarding Joint Parties' Request for FM Digital Power Increase and Associated Technical Studies*, Public Notice, DA 09-1127 (rel. May 22, 2009) ("*Public Notice*"). See also 74 Fed. Reg. 27985 (June 12, 2009).

information necessary to avoid authorizing an unduly large and unfair FM DAB power increase on the backs of FM analog broadcasters without there being a basis for doing so. Any Commission decision prior to the completion of NPR's studies would thus be premature. In support thereof, Entravision states as follows.

Along with the rest of the terrestrial radio broadcasting world, Entravision is excited about the innovative services made possible by DAB operations, including multicasting and datacasting. Entravision understands the Joint Parties' desire to correct coverage shortfalls and reception difficulties, and fully supports the Commission's efforts to devise rules and policies to promote the success of digital radio. However, Entravision believes that the Joint Parties' requested tenfold increase in power would promote digital radio at the expense of analog radio, which is the predominant form of broadcasting at this time and for the foreseeable future. The Joint Parties' proposal does not adequately address interference to analog FM stations potentially arising from the operation of DAB stations at the -10 dB level with evidence that shows that there will not be harm to analog stations. As such, it is a lopsided proposal that promotes the interests of digital radio without duly considering and protecting the interests of analog radio broadcasters and listeners.

As stated in the *Public Notice*, NPR intends to use the results of its additional testing to make a recommendation as to the appropriate power increase "needed to improve digital radio coverage while also protecting analog FM signals, including subcarrier transmissions, from interference."² This is precisely the balanced approach the Commission should adopt in deciding the instant proceeding. Given the Commission's obligation to make rational decisions based on a fully-developed record, it behooves the Commission to postpone its evaluation of the merits of

² *Public Notice* at 2.

the Joint Parties' request until NPR's findings are made available.

Whatever the promise of digital radio, substantial interference to analog FM operations simply cannot be tolerated. Specifically, while many higher-powered stations would benefit greatly from the large increase in power proposed by the Joint Parties, many lower-powered and "rimshot" stations would suffer commensurate harm. As it stands, lower-powered stations tend to be the domain of minority owners who often provide specialty programming to minority and underserved audiences. Any aggressive, one-sided policy focused exclusively on the advancement of digital radio, such as the Joint Parties' proposal, could thus too easily have a disproportionate, detrimental impact on both minority analog FM broadcasters and their minority listeners. Such a result would directly contradict the Commission's longstanding commitment to fostering the diversity of media voices.

In addition, FM DAB stations causing interference to lower-powered stations is not mere conjecture. For example, Entravision's Station KRRN(FM), Channel 224C, Moapa Valley, Nevada, which provides Spanish-language programming to Hispanics in the greater Las Vegas metropolitan area, has already been adversely affected by DAB operations at the -20 dB level. While KRRN may not garner the sizeable audience share of higher-powered stations licensed to the Las Vegas market, it nonetheless provides important news and entertainment programming to Hispanic listeners in the area. Heretofore, KRRN had provided interference-free service in its radio service area. Now, Entravision has found that interference from adjacent DAB stations has resulted in KRRN no longer providing the same level of service in its market and to its target audience. At the heart of the broadcast regulatory policy is a station's right to interference-free operation and interference from DAB operations on adjacent channel radio stations therefore contravenes the public interest.

Based on the foregoing, Entravision responds to the Commission's specific inquiries in the *Public Notice* as follows:

- (1) Should the Bureau defer consideration of the Joint Parties' requested power increase until the completion of and comment on the further NPR studies?**

Yes. As noted above, the goal of NPR's further studies is to determine what amount of power increase will effectively improve digital radio coverage while also protecting analog FM signals. Such a balanced consideration of the interests of both digital and analog radio broadcasters and listeners is precisely what is missing from the current record in the instant proceeding. In order to arrive at a fully-informed decision, the Commission should defer consideration of the Joint Parties' proposal until NPR completes its further studies.

- (2) Does the record in this proceeding, the real-world experience gained from over 1,400 FM stations operating for several years in the hybrid mode and the record of experimental authorizations at higher digital power levels warrant an increase in maximum digital operating power as proposed by the Joint Parties or support a provisional power increase of some lesser extent than that requested by the Joint Parties?**

No. The record in this proceeding does not warrant the tenfold increase in power proposed by the Joint Parties. To put the Joint Parties' proposal in context, it is equivalent to a 50,000 kW analog station that does not currently provide adequate coverage proposing a corrective increase in power to 500,000 kW. The record in this proceeding simply cannot justify such an extraordinary change in operating power. While a provisional power increase of some lesser extent is certainly more reasonable, Entravision once again submits that no action should be taken with respect to DAB power levels until such time as NPR completes its further studies.

- (3) If the Commission does adopt a power increase, should it also establish standards to ensure the lack of interference to the analog signals of stations operating on first adjacent channels? Should such standards apply to, i.e., require the protection of, LPFM stations operating on first adjacent channels?**

If and when the Commission does adopt a power increase, for the reasons stated above, the Commission must establish standards to ensure that analog stations on first adjacent channels, including LPFM stations, do not suffer harmful interference from DAB stations.

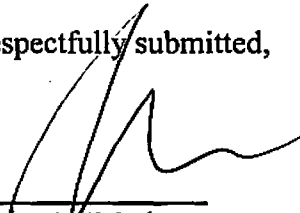
(4) If the Commission does adopt a power increase, should it also establish more explicit procedures to resolve digital-into-analog interference complaints?

If and when the Commission does adopt a power increase, for the reasons stated above, the Commission should establish clear procedures, that lead to prompt action, for resolving digital-into-analog interference disputes. The Commission must do everything in its power to ensure that its promotion of digital radio does not come at the expense of analog broadcasters and their listeners.

In sum, Entravision requests that the Commission defer consideration of the Joint Parties' requested power increase until completion of NPR's further studies. Such studies will help the Commission make a fully-informed decision on the requested DAB power increase and effectively balance FM DAB broadcasters' desire for improved coverage with FM analog broadcasters' need for interference protection. Any Commission decision adopted prior to NPR's release of its findings would deny full and proper airing to the important issues and interests at

stake in this proceeding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Barry A. Friedman', written over a horizontal line.

Barry A. Friedman
Thompson Hine LLP
1920 N Street, N.W.
Suite 800
Washington, DC 20036
(202) 331-8800

Counsel for Entravision Holdings, LLC

July 2, 2009